

REMARKS

Claims 2-4, 6-9 and 11-18 are in the case. New claim 18 is substituted for claim 1 and is the only independent claim. Claims 1, 5, and 10 are canceled.

In the initial office action, the examiner rejected some of the claims under 35 U.S.C. 102(b) as anticipated by Kumm (US 3,706,523) and rejected the remaining claims under 35 U.S.C. 103(a) on Kumm in view of Kapinski (US 6,551,099) and on Kumm in view of Hardy (US 6,065,960).

Applicant believes that the claims as amended are now allowable for the following reasons.

On the one hand, applicant believes that the examiner would agree that a comparison of applicant's invention as illustrated in applicant's drawings to the structures taught in the prior art references clearly shows that they are very different. On the other hand, applicant concedes that it is applicant's responsibility to draft applicant's claims so that the claims define the differences. Therefore, claim 1 has been canceled and new independent claim 18 has been substituted for it.

In its preferred form, the invention is a build-your-own candle that allows someone to design and assemble a candle from solid component parts, selecting colors and fragrances, without requiring any melting of any wax. This was described in paragraphs [0005] and [0006] of the specification. More specifically, a plurality of wax (or other solid candle fuel) rings are stacked around a central core that has a wick. The candle fuel rings surround the core but are slidable along it so they can be stacked.

The Kumm reference shows what the examiner says it shows. The Kumm reference is directed to having colored rings around a candle to provide indicia of a

length of time, using the indicia scheme long used by electrical resistors. Kumm does show "bands" around a candle but those bands are described as being made of "plastic or metal", as the examiner recognized. There are good reasons for that requirement. If the Kumm bands were made of candle fuel, such as wax, they obviously would break when forced around a candle. Additionally, the Kumm bands play no role in the function of a candle because they are not made of candle fuel and they are too small and thin. Therefore, both the purpose and the function of the Kumm bands are entirely different from the purpose and function of applicant's structures.

In Figs. 7A and 7B, Kumm also appears to disclose multiple "short length candles" which are stacked. However, they are cylindrical segments of candles stacked end to end. They are not rings or bands.

The Kapinsky reference also shows what the examiner said. However, it does not show anything like the central core and surrounding rings of applicant's invention. It shows disk-like wax "segments" which are joined by "seal wax segments" to form a "layered" candle.

The Hardy reference also shows what the examiner said. However, the rings of Hardy define a container for a candle because they are made of non-flammable (glass) material and they are not a part of the candle.

No prior art teaches the concept of wax (or other candle fuel) rings stacked around a central wax core with a wick to form a candle. The claims now define these differences from the prior art. New claim 18, the only independent claim, clearly recites that both the central, axial core and the rings are made of candle fuel. The preamble states that the claim is directed to a candle. It is not directed to a candle combined with a container.

Thus, the rings together with the core form a candle. Claim 18 is also not directed to a candle with non-flammable rings around its outer surface.

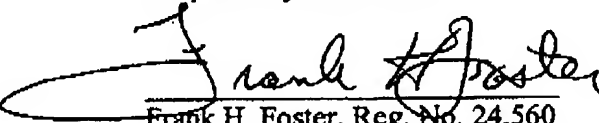
The prior art does not teach, suggest or motivate the construction of a candle by assembling solid, candle fuel components. The prior art does not suggest doing that by stacking candle fuel rings around a candle fuel core with a wick. No single prior art reference shows that and no combination of prior art structures could be combined to provide that structure. The purpose, the structural combination and the way the structures cooperate to form a candle that accomplishes the purpose are all absent from the prior art. Therefore, reconsideration and allowance are respectfully requested.

The Commissioner is authorized to charge Deposit Account No. 13-3393 for any insufficient fees under 37 CFR §§ 1.16 or 1.17, or credit any overpayment of fees.

Respectfully submitted,

2/8/05

Date of Signature



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